

REMARKS

Claims 1-5, 19-26, 34-40, 45-48, 57, 60, 61 and 63 are pending. Claims 1, 2, 19, 25, 26, 34, 37, 45, 57, 60, 61 and 63 have been amended without narrowing their scope. In fact, their scope has been broadened. Favorable reconsideration is requested.

Claims 1, 2, 19-21, 25, 26, 34-37, 45, 57, 60, 61 and 63 were rejected under 35 U.S.C. § 102(b) over U.S. Patent Publication 2001/5359 (Bergqvist). Claims 3-5, 22-24, 38-40, and 46-48 were rejected under 35 U.S.C. § 103 over Bergqvist in view of in view of U.S. Patent Publication 2003/3921 (Laakso). Applicant traverses and submits that the independent claims are patentable over Bergqvist and Laakso, taken individually or together.

Independent claim 1 recites, inter alia, a control step of, based on radio-link quality information to be notified from at least one of a plurality of radio base stations and radio terminals belonging to respective different operators, taking alteration control of a frequency that the radio base station utilizes.

“Alteration control of the frequency that the radio base station utilizes” means controlling the changing of the frequency used by the base station. The paragraphs of Bergqvist that have been cited in the Office Action do not teach the recited limitation.

As was discussed in the previous response, Bergqvist broadcasts a message that contains information about the cells within the accessible area that use a congested carrier frequency. The message can be used to prohibit user equipment from initiating a call setup to the cells having the congested frequency, forcing the equipment to request call setup in an unrestricted neighbor cell which does not use the congested frequency. See, e.g., Bergqvist, at paragraph [0026].

Claim 1 recites, inter alia, that “alteration control,” that is, control of the change of the frequency *used by a particular radio base station*, is performed. However, the cited portions of Bergqvist *do not relate to controlling the changing of the frequency utilized by the radio base station at all*. For at least this reason, Bergqvist does not anticipate independent claim 1.

In the Response to Arguments section of the Office Action, the Examiner states that in Bergqvist:

"The radio base station of a congested cell sends this call admission information on its broadcast channel, block 24. Said additional call admission information, which is an object of the present invention, can refer to a restricted or permitted access either for other carrier frequencies or for other cells using the same carrier frequency." Office Action at page 2 (Examiner's emphasis).

However, without conceding the accuracy of this statement, it is completely immaterial to the patentability of the *actually recited* limitations. Claim 1 explicitly recites that *alteration control of the frequency that the radio base station uses* is performed.

While Bergqvist's method prohibits mobile terminals from initiating a call to cells that have congested frequencies, it does not teach controlling the changing (i.e., alteration control) of the frequency a radio base station utilizes. For at least this reason, amended claim 1 is believed clearly patentable over Bergqvist.

The other independent claims recite, *inter alia*, a substantially similar feature and are believed patentable for at least the same reasons as claim 1 and are believed patentable over Bergqvist for at least the same reasons. The dependent claims are believed patentable over Bergqvist for at least the same reasons as their respective base claims.

As to previous rejections of the claims over Laakso, contrary to the position that was taken in the Office Action dated August 23, 2007, Laakso does not teach a control step of, based on radio-link quality information to be notified from at least one of a plurality of radio base stations and radio terminals belonging to respective different operators, taking alteration control of a frequency that the radio base station utilizes.

In the paragraphs alleged by the Examiner to have taught this feature in that Office Action, it is the inter-frequency handover of the terminal, which aims at avoiding congestion, that is shown in paragraphs [0016], [0064], [0057], and [0157], and the step of changing the frequency itself, *of the base station*, is *not* performed. This is apparent from the statement

Furthermore, it is conceivable to make use of inter-frequency handover to another carrier. If some other layer of the cell is not so loaded as the cell concerned, the load control means LC of the radio network controller RNC could move, some users into that frequency using handover control. This will stabilize the load of different layers. Laakso at [0157].

In contrast, in the claimed invention, it is the frequency of the base station itself that is changed in response to the interference quantity, which is clearly different from Laakso. Further, Laakso does not teach the concept that the process of frequency-alteration control is performed based on the results measure by the terminals or the base stations belonging to wireless networks of respective different radio undertakers.

For this additional reason, the independent claims are patentable over Bergqvist or Laakso, taken individually or together.

In view of the above remarks, applicant believes the pending application is in condition for allowance, and its entry is therefore believed proper.

Dated: May 29, 2009

Respectfully submitted,

By Joseph W. Ragusa
Joseph W. Ragusa
Registration No.: 38,586
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, New York 10036-2714
(212) 277-6500
Attorney for Applicant